Supreme Court of the United States,

OCTOBER TERM, 1914, No. 908.

KNAUTH, NACHOD & KUHNE,
Petitioners,

vs.

LATHAM & COMPANY and others,
Respondents.

REPLY FOR PETITIONERS.

The petitioners are in receipt, by the courtesy of counsel for respondents Latham & Company and American Surety Company of New York, of a copy of their brief in opposition to the petition for a writ of *certiorari* and respectfully request the Court to consider the following points in connection therewith.

The petition consists of a summary statement of the facts of the case and the motion contains a summary statement of the contentions of the petitioners.

POINT I.

The question is whether the petitioners were entitled to have their claim heard and determined on its merits in the courts below and to amend their bill, if found defective. The brief for said respondents is proof positive, the petitioners submit, that their bill is not frivolous, and that the writ of *certiorari* should be granted.

Moore-Mansfield Construction Co. vs. *Electrical Installation Co.*, *234 U. S. 619, 626.*

Itow and Fushimi vs. *United States*, *233 U. S. 581, 586.*

"It is a necessary and well settled rule that the exercise of jurisdiction by this Court to protect constitutional rights cannot be declined when it is plain that the fair result of a decision is to deny the rights."

Rogers vs. *Alabama*, *192 U. S. 226, 230.*

POINT II.

The respondent Trustee disputes that the petitioners have as much right to follow their money into other property in his hands as into the property in question; but, if that were conceded, it would not deprive them of the right to follow their money into the property in question, the respondents Latham & Company not being takers in good faith or for value. (*Printed Record, pp. 89-90, ¶s. 18-19.*) **The following quotation from petitioners' bill seems sufficient on this point.**

> "* * * after your orators Knauth, Nachod & Kuhne, * * * had delivered their money to said F. van Gerpen * * * said foreign drafts were all accounted for and the proceeds thereof remitted to Knight, Yancey & Company and deposited by them, with other money, in the First National Bank of Decatur * * * . At the instance of Knight, Yancey & Company, by checks or acceptances or otherwise, the said bank credit or trust fund was expended * * * for certain cotton. * * * Parts of the cotton mentioned in all said schedules 5 to 14 inclusive were paid for out of the money of Knauth, Nachod & Kuhne." * * * (*Printed Record on Appeal, pp. 86, 87.*)

POINT III.

Judgment on the points submitted on behalf of the respondents, Latham & Company, should be reserved until after the case has been heard on the merits.

Respectfully submitted April 16, 1915.

ARTHUR V. BRIESEN,
Counsel for Petitioners,
25 Broad Street,
New York, N. Y.

ANTONIO KNAUTH,
THOMAS M. STEVENS,
GEORGE T. HOGG,
Of Counsel.